

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 273 of 2005

And

WRIT PETITION NO.14169 OF 2003

W.A.NO.273 OF 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/07/2003 in WP No.14169 of 2003 on the file of the High Court.)

Between:

- 1 Muthukundu Adilakshamma, W/o.Narasimha Reddy,
R/o.Krishnapuram Village, H/o.Budhavada, Marripadu Mandal,
Nellore District.
- 2 Muthukundu Pulla Reddy, S/o.Narasimha Reddy,
R/o.Krishnapuram Village, H/o.Budhavada, Marripadu Mandal,
Nellore District.

..... APPELLANTS

AND

- 1 The Chief Commissioner of Land Administration, A.P., Hyderabad.
- 2 The Joint Collector, Nellore, Nellore District.
- 3 The Revenue Divisional officer, Kavali, Nellore District.
- 4 The Mandal Revenue officer, Marripadu Mandal, Nellore District.

.....RESPONDENTS

Counsel for the Appellant: MR.P.SRIDHAR REDDY

Counsel for the Respondents: GP FOR REVENUE

W.P.NO.14169 OF 2003

1. Muthukundu Adilakshmamma

2. Muthukundu Pulla Reddy

and

1 The Chief Commissioner of Land Administration, A.P., Hyderabad.

2 The Joint Collector, Nellore, Nellore District.

3 The Revenue Divisional officer, Kavali, Nellore District.

4 The Mandal Revenue officer, Marripadu Mandal, Nellore District.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Certiorari calling for the records relating to the proceedings of the 1st respondent dated 28.4.2003 in confirming the order of respondent Nos. 2 to 4 as arbitrary, illegal and consequently declare that the 4th respondent has no jurisdiction to issue orders of cancellation of patta.

Counsel for the petitioner: Mr.B.Somasekhar

Counsel for Respondents: G.P. for Revenue.

The Court at the stage of admission made the following

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ORAL ORDER: (per the Hon’ble the Chief Justice)

Learned single Judge dismissed the writ petition *in limini* and appeal is against the said order. Before the learned single Judge, challenge was made by the appellant to the order passed by the Commissioner of Appeals dated 28.4.2003 confirming the order of the Joint Collector, Nellore dated 12.10.2001. Before the Joint Collector, appeal had been preferred by the writ petitioner-appellant against the order passed by the Revenue Divisional Officer, Kavali dated 5.1.2000 in F.3131/99. The original order was passed on 2.7.1999 by the Mandal Revenue Officer, Marripadu cancelling the assignment made in favour of the appellants to the

extent of Ac.4.20 acres in S.No.658/4P and to the extent of Ac.5.00 in S.No.658/1 and 658/3 of Budiwada village. The order of the Mandal Revenue Officer was challenged by the appellants in appeal before the Revenue Divisional Officer, Kavali, who, for reasons, recorded that at the time of granting of patta, the 2nd appellant was unmarried and was living with her mother, the 1st appellant and there was an undivided family at the time of grant of patta. The submission of the appellants was recorded that they had tried to bring the land into cultivation to avoid disqualification under Condition No.2 of D-Form but no recorded evidence was produced and therefore it was a fit case for the Mandal Revenue Officer to take a decision in the matter after perusing the adangal entries from 1992 and after giving reasonable opportunity to the appellants. Accordingly, he set aside the order passed by the Mandal Revenue Officer and remanded the matter to him for de novo enquiry and to take appropriate action in the matter. The Mandal Revenue Officer was also directed to keep in mind that he can issue resumption proceedings in case of violation of condition No.2 of D-form patta and in case he wants to get the D-form patta cancelled, he has to send cancellation proposals after due enquiry. When the appeal was carried against this order, the Joint Collector, instead of going into the legality and validity of the orders passed by the Revenue Divisional Officer, went into the merits of the order passed by the Mandal Revenue Officer and confirmed the same and the same mistake was committed by the Commissioner of Appeals. One of the questions, which had been raised and was upheld by the Revenue Divisional Officer was about the jurisdiction of the Mandal Revenue Officer to pass orders. Neither the Joint Collector nor the Commissioner, Appeals could have gone into the merits of the case since the merits were not at all considered and decided by the Revenue Divisional Officer in his order and for that reason, the said orders are bad in law.

Having heard the counsel for the appellants we are of the view that no interference is called for in the order passed by the Revenue Divisional Officer which was a valid order directing the Mandal Revenue Officer to conduct fresh enquiry and pass appropriate orders as per the directions issued by the Revenue Divisional Officer, Kavali.

Consequently, the appeal is allowed. The impugned order is set aside. The writ petition is disposed of restoring the order dated 5.1.2000 passed by the

Revenue Divisional Officer, Kavali with a direction to the Mandal Revenue Officer to proceed as per the directions contained in the above order. It is needless to add that the Mandal Revenue Officer will pass appropriate orders in accordance with law uninfluenced by the observations made by the Joint Collector as well as the Commissioner of Appeals in their respective orders.

DEVINDER GUPTA, C.J

Dated 10..03..2005

B.SESHASAYANA REDDY,J

msv

To

- 1 The Chief Commissioner of Land Administration, A.P., Hyderabad.
- 2 The Joint Collector, Nellore, Nellore District.
- 3 The Revenue Divisional officer, Kavali, Nellore District.
- 4 The Mandal Revenue officer, Marripadu Mandal, Nellore District.

5 2 CCs to the Govt.Pleader for Revenue, High Court of A.P. Hyderabad

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